

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.12, 307A.2 and 321.377, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 911, “School Transportation Services Provided by Regional Transit Systems,” Iowa Administrative Code.

The Department is proposing amendments to Chapter 911 to update the chapter. The following explains each proposed amendment:

- Item 1 updates the office contact information, corrects a telephone number and adds the Department’s website.

- Item 2 makes changes to the definitions of “automobile” and “multipurpose vehicle” so the terms refer to the definitions used in Iowa Code section 321.1. This item also amends the definition of “regional transit system” so the term refers to the definition used in Iowa Code section 324A.1. These three terms will only refer to the definitions in the Iowa Code, rather than repeat the definitions so the rules will not need to be modified if the Iowa Code definition changes. Item 2 also updates the definition of “student” to include Head Start participants.

- Item 3 adds a new definition of “public transit system” which refers to the definition used in Iowa Code section 324A.1.

- Item 4 adopts the current parts of the Code of Federal Regulations (CFR) referenced in Chapter 911 as follows: 49 CFR 38, Americans with Disabilities Act; 49 CFR 571, Federal Motor Vehicle Safety Standards; and 49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations. While the CFR date in 761—subrule 911.5(1) has not been updated since 2006, no changes to the federal regulations adopted within this chapter have occurred during that time and the Department is proposing to adopt the October 1, 2017, CFR. This item also provides the website of the U.S. Government Publishing Office where the public may review the federal regulations.

- Item 5 provides that each driver is subject to certain testing for drug and alcohol usage as detailed by the Federal Transit Administration (FTA). This item changes the word “required” to “detailed” since the FTA does not require preemployment alcohol testing. All other tests listed in subrule 911.6(1) are required by the FTA. Preemployment alcohol testing is optional for employees of public transit systems.

- Item 6 requires that each new driver complete a course of instruction approved by the Iowa Department of Education in the time period required by Iowa Code section 321.376. The amendments comply with the changes made in Iowa Code section 321.376.

- Item 7 allows a driver who is in training to be licensed with a commercial learner’s permit as long as the driver abides by the restrictions in rule 761—607.20(321).

- Item 8 adds new subrule 911.6(7), which requires each driver who transports students to undergo a physical examination by a certified medical examiner who is listed on the National Registry of Certified Medical Examiners in accordance with Iowa Code section 321.375(1)“d” and with Iowa Department of Education rules. This item also requires the driver to annually submit the signed medical examiner’s certificate to the driver’s employer.

- Item 9 removes outdated language and requires that buses used for school transportation incorporate a rear emergency exit door.

- Item 10 concerns passenger restraint/protection devices and corrects the wording of Standard No. 225 to read: Child Restraint Anchorage Systems.

- Item 11 adds new subrule 911.7(6), which requires that, when a public transit system purchases a used vehicle from another public transit system, the previous owner’s Iowa Department of Education’s bus inspection stickers be removed. This item also states that if the purchasing public transit system

plans to use the vehicle for school transportation service, a new inspection must be performed on the vehicle.

- Item 12 removes unnecessary language.
- Item 13 eliminates the required use of a prescribed form created by the Department when maintenance personnel annually inspect a vehicle. Each mechanic or dealership where inspections are completed likely has its own form and therefore the need for a specific form was removed.
- Item 14 adds the option of a mobile data terminal tablet as an item of equipment used to communicate between the vehicle and the regional transit system's base of operations. Many regional transit agencies utilize this technology, connected by cellular service, to communicate with the driver. This item also requires fire extinguishers to be inspected and maintained in accordance with standards set by the National Fire Protection Association. These standards mirror those required of Iowa school buses as detailed in 281—Chapter 44 of the Iowa Department of Education's rules. The National Fire Protection Association's standard for portable fire extinguishers may be accessed with a free login to the association's website. Item 14 also requires the following additional equipment be on board public transit vehicles transporting school children: a seatbelt web cutter, roadside reflective triangles, an operable flashlight and a reflective vest. These items are required of all public transit vehicles, regardless of whether the vehicle is transporting school children or not, but the Iowa Department of Education is in agreement with listing these items in this chapter to define expectations. Flashlights must be on board vehicles when the vehicle is in use, whether assigned to the vehicle or to the driver. Often, during compliance review checks, flashlights have been found to contain nonworking batteries; therefore the word "operable" was included to ensure that the flashlights are in working condition at all times.
- Item 15 states that every driver must make a complete stop before driving across the tracks of any railroad crossing, in accordance with Iowa Code section 321.343. Iowa Code section 321.343 was amended and the Department made changes to the rules to refer to these requirements.
- Item 16 requires the driver to perform posttrip inspections that include a walk-through to the back of the vehicle to ensure no sleeping or hiding children are left behind. Children, especially younger students, are small and can be difficult to see in a rearview mirror of a vehicle.
- Item 17 amends the chapter's implementation sentence to add a reference to Iowa Code section 321.375, which concerns school bus drivers' qualifications and grounds for suspension.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Strategic Communications and Policy, 800 Lincoln Way, Ames, Iowa 50010; email: tracy.george@iowadot.us.
5. Be received by the Department's rules administrator no later than January 23, 2018.

A meeting to hear requested oral presentations is scheduled for Thursday, January 25, 2018, at 9 a.m. in the Administration Building, First Floor, North Conference Room, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 321.1, 321.189, 321.343, 321.375, 321.377 and 324A.1.

The following amendments are proposed.

ITEM 1. Amend subrule 911.1(2) as follows:

911.1(2) Information. Information and forms may be obtained from the Office of Public Transit, Iowa Department of Transportation, ~~Office of Public Transit~~, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1875 (515)233-7870; or the department's website at www.iowadot.gov.

ITEM 2. Amend rule ~~761—911.2(321,324A)~~, definitions of “Automobile,” “Multipurpose vehicle,” “Regional transit system” and “Student,” as follows:

“*Automobile*” means ~~a motor vehicle, except a motorcycle or motorized bicycle, designed primarily to carry nine persons or less, the same~~ as defined in Iowa Code section 321.1.

“*Multipurpose vehicle*” means ~~a motor vehicle designed to carry not more than ten persons, and constructed either on a truck chassis or with special features for occasional off-road operation, the same~~ as defined in Iowa Code section 321.1.

“*Regional transit system*” means ~~a regional transit system designated under the same~~ as defined in Iowa Code section 324A.1 and all subcontracted providers to the designated regional transit system. It does not mean an urban transit system designated under that section.

“*Student*” means a person attending a public or nonpublic school, grades prekindergarten through high school, including a Head Start participant.

ITEM 3. Adopt the following **new** definition of “Public transit system” in rule **761—911.2(321,324A)**:

“*Public transit system*” means the same as defined in Iowa Code section 324A.1.

ITEM 4. Amend rule 761—911.5(321) as follows:

761—911.5(321) Adoption of federal regulations.

911.5(1) Code of Federal Regulations. The department of transportation adopts the following portions of the October 1, ~~2006~~ 2017, Code of Federal Regulations, which are referenced throughout this chapter:

- a. 49 CFR Part 38, Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- b. 49 CFR Part 571, Federal Motor Vehicle Safety Standards.
- c. 49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.

911.5(2) Obtaining copies of regulations. Copies of these regulations are available from the state law library or ~~through the Internet at~~ <http://www.dot.gov> online through the U.S. Government Publishing Office at www.ecfr.gov.

ITEM 5. Amend subrule 911.6(1) as follows:

911.6(1) FTA drug and alcohol testing. Each driver is subject to the following testing for drug and alcohol usage as ~~required~~ detailed by the Federal Transit Administration in 49 CFR Part 655, including:

- a. Preemployment testing.
- b. Reasonable suspicion testing.
- c. Postaccident testing.
- d. Random testing.
- e. Return to duty testing.
- f. Follow-up testing.

ITEM 6. Amend subrule 911.6(2) as follows:

911.6(2) Training. Each new driver must, before or within the first six months of assignment and at least every ~~42~~ 24 months thereafter, complete a course of instruction approved by the department of education, in accordance with Iowa Code section 321.376.

ITEM 7. Amend subrule 911.6(5) as follows:

911.6(5) Driver licensing. Each driver must be licensed appropriately for the size and type of vehicle used as provided in Iowa Code section 321.189. A Class A, B or C commercial driver's license with passenger endorsement may be required. A driver may operate the vehicle for purposes of training if the driver has the appropriate commercial learner's permit as defined in 761—Chapter 607, and the

restrictions in rule 761—607.20(321) shall apply. If a commercial driver's license is not required, a Class D (chauffeur) license with passenger endorsement is required.

ITEM 8. Adopt the following **new** subrule 911.6(7):

911.6(7) Physical fitness. Each driver who transports students must undergo a physical examination by a certified medical examiner who is listed on the National Registry of Certified Medical Examiners in accordance with Iowa Code section 321.375(1)“d” and with department of education rule 281—43.15(285) or 281—43.17(285). Annually, the driver must submit the signed medical examiner's certificate to the driver's employer.

ITEM 9. Amend subparagraph **911.7(1)“b”(1)** as follows:

(1) Standard No. 217, Bus Emergency Exits and Window Retention and Release. Buses ~~purchased after January 1, 2000,~~ utilized for school transportation shall incorporate a rear emergency exit door in meeting this standard.

ITEM 10. Amend paragraph **911.7(2)“f”** as follows:

f. Standard No. 225, Child Restraint ~~Anchoring~~ Anchorage Systems.

ITEM 11. Adopt the following **new** subrule 911.7(6):

911.7(6) Transfer to another public transit system. When a public transit system purchases a used vehicle from another public transit system, the previous owner's department of education's bus inspections stickers must be removed. If the purchasing public transit system plans to use the vehicle for school transportation service, a new inspection must be performed on the vehicle.

ITEM 12. Amend subrule 911.8(2) as follows:

911.8(2) Daily pretrip vehicle inspections. Drivers of these vehicles must perform daily pretrip vehicle inspections using a form prescribed by the department of ~~transportation~~. Regional transit systems must retain daily pretrip vehicle inspection reports and documentation of follow-up maintenance for one year.

ITEM 13. Amend subrule 911.8(3) as follows:

911.8(3) Annual vehicle inspection. Maintenance personnel must annually inspect each vehicle ~~using a form prescribed by the department of transportation~~. Regional transit systems must retain annual vehicle inspection forms records for one year.

ITEM 14. Amend rule 761—911.9(321) as follows:

761—911.9(321) Safety equipment. Regional transit system vehicles assigned to provide school transportation service must carry the following safety equipment:

911.9(1) Communication equipment. Each vehicle must be equipped with a two-way radio, ~~or~~ cellular telephone, or mobile data terminal tablet capable of emergency communication between the vehicle and the regional transit system's base of operations.

911.9(2) No change.

911.9(3) Fire extinguisher. Each bus or school bus must be equipped with a minimum 5-pound capacity, dry chemical fire extinguisher. Each automobile and multipurpose vehicle must be equipped with an extinguisher of at least 2.5-pound capacity. Extinguishers must have a 2A-10BC rating. All fire extinguishers shall be inspected and maintained in accordance with the National Fire Protection Association requirements. The standards for portable extinguishers are available online from the National Fire Protection Association at www.nfpa.org.

911.9(4) Seatbelt web cutter. A seatbelt web cutter must be mounted or placed within reach of the driver.

911.9(5) Roadside reflective triangles. Each vehicle must be equipped with roadside reflective triangles for use in case of breakdown or emergency.

911.9(6) Flashlight. Each vehicle must be equipped with an operable flashlight or each driver must be assigned an operable flashlight to be in the vehicle at all times of operation.

911.9(7) Reflective vest. Each vehicle must be equipped with a reflective vest or each driver must be assigned a reflective vest that must be in the vehicle at all times of operation. Individual regional transit systems are to establish a policy for when the reflective vests must be worn.

ITEM 15. Amend subrule 911.10(4) as follows:

911.10(4) Stops at rail crossings. Every driver must make a complete stop before ~~crossing driving~~ across the tracks of any railroad crossing, in accordance with Iowa Code section 321.343. ~~In the case of a bus or school bus, the driver must open the service entrance door, look and listen for approaching trains and proceed to cross the tracks only when the driver can do so safely. No stop is needed where the crossing is posted with an exempt sign.~~

ITEM 16. Amend subrule 911.10(8) as follows:

911.10(8) Posttrip inspection. After each trip that had students on board, the driver must perform a posttrip inspection of the interior of the vehicle ~~used to transport the students.~~ The posttrip inspection must include a walk-through to the back of the vehicle to ensure that no sleeping or hiding children are left behind.

ITEM 17. Amend **761—Chapter 911**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 321.1, 321.189, 321.343, 321.375, 321.376, 321.377 and 324A.1.